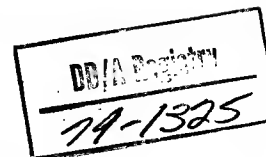


DD/A Registry
File Contracts



OFFICE OF LOGISTICS
PROCUREMENT NOTE NO. 128

11 April 1979

IMPLEMENTATION OF THE CONTRACT DISPUTES
ACT OF 1978 (PL 95-563, 41 U.S.C. 601-613)

1. On November 1, 1978, the President signed into law, Public Law 95-563, the "Contract Disputes Act of 1978." The act, among other things, requires changes to the Rules of Procedure currently in use by the Boards of Contract Appeals of the procuring agencies, as well as certain other changes in contract clauses and procurement regulations by 1 March 1979. The Office of Federal Procurement Policy (OFPP) has issued the attached interim set of final rules and regulations which detail the changes required by Public Law 95-563 and reflect many of the comments received on proposed rules and regulations.

2. A formal amendment to the Defense Acquisition Regulation (DAR) will not be initiated until after 1 June 1979. This is the date set aside for the OFPP interim rules to automatically become final unless changed before that time. The DAR Council has, on 28 February 1979, directed the immediate use and implementation of the OFPP rules and provided also the following guidance:

"a. All contracts, unless excepted by the rules, awarded on or after 1 March 1979, are subject to these procedures. If a previous version of the "disputes" clause has been included in a contract awarded on or after 1 March 1979, it has no legal effect and is superseded by the act and these implementing procedures.

b. Contracts including a superseded clause, awarded on or after 1 March 1979, need not be modified solely for the purpose of incorporating the new clause; however, the new clause shall be incorporated in the first modification, if any, issued under such contracts.

c. Notwithstanding the provisions of any "disputes" clause in a contract awarded prior to 1 March 1979, the contractor may elect to proceed under the act and these

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implementing procedures with respect to any disputed request pending before the contracting officer on 1 March 1979 or a claim initiated thereafter."

3. Effective immediately upon receipt of this notice, the following alterations are to be made to Section A of the General Provisions (Form 1424A) dated 9-77.

Delete: Article 7 DAR 7-103.12
Disputes (1958 Jan)

Add: Article 7 DAR 7-103.12
Disputes (undated)

(a) This contract is subject to the "Contract Disputes Act of 1978" (41 U.S.C. 601, et. seq.). If a dispute arises relating to the contract, the contractor may submit a claim to the contracting officer who shall issue a written decision on the dispute in the manner specified in DAR 1-314.

(b) "Claim" means

(1) a written request submitted to the contracting officer;

(2) for payment of money, adjustment of contract terms, or other relief;

(3) which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and

(4) for which a contracting officer's decision is demanded.

(c) In the case of disputed requests or amendments to such requests for payment exceeding \$50,000, or with any amendment causing the total request in dispute to exceed \$50,000, the contractor shall certify, at the time of submission as a claim, as follows:

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
I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable.

..... (Contractor's Name)

..... (Title)

- (d) The Government shall pay the contractor interest
- (1) on the amount found due on claims submitted under this clause;
 - (2) at the rates fixed by the Secretary of the Treasury, under the "Renegotiation Act," Public Law 92-41;
 - (3) from the date the contracting officer receives the claim, until the Government makes payment.
- (e) The decision of the contracting officer shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency unless an appeal or action is timely commenced within the times specified by the "Contract Disputes Act of 1978."
- (f) The contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal or action related to the contract, and comply with any decision of the contracting officer.

(END OF CLAUSE)

 James H. McDonald
Director of Logistics

Attachment